

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\_\_\_\_\_  
LORENZO GUARINO,  
Plaintiff,

v.

CIVIL ACTION NO. 04-10246 JLT

\_\_\_\_\_  
R. W. GRANGER & SONS, INC. &  
SCAVONE C&M CONSTRUCTION CO., INC.,  
Defendants  
\_\_\_\_\_

**PLAINTIFF' S FIRST AMENDED COMPLAINT**  
**AND CLAIM TO TRIAL BY JURY**

A: PARTIES

1. The plaintiff, Lorenzo Guarino, is an individual citizen of the United States and a resident of the State of Rhode Island.
2. The defendant, R.W. Granger & Sons, Inc., is, on information and belief, a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts with a principal place of business in the Town of Shrewsbury in and for the County of Worcester.
3. The third-party defendant, Scavone C&M Construction Company, Inc., is, on information and belief, a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts with a principal place of business in the Town of Marlborough in and for the County of Middlesex.
4. The incident giving rise to this claim occurred on or about February 5, 2002, at a site known as the Old Rochester High School which is located in the Town of Marion, County of Plymouth, Commonwealth of Massachusetts.

B. JURISDICTIONAL STATEMENT

5. This Honorable Court has subject matter jurisdiction over this matter under the provisions of 28 U.S.C. § 1332 as the plaintiff identified in ¶ 1 and defendants identified in ¶¶ 2 and 3 are citizens of different states and the amount in controversy in this action exceeds \$ 75, 000.00, exclusive of interest and costs.

\*\*\* COUNT ONE \*\*\*

**CLAIM OF THE PLAINTIFF LORENZO GUARINO, AGAINST THE  
DEFENDANT, R. W. GRANGER & SONS, INC., FOR  
PERSONAL INJURIES PREDICATED UPON NEGLIGENCE**

6. The Plaintiff repeats, realleges and incorporates fully here ¶¶ Paragraphs 1 – 5.

7. On or about February 5, 2002, the plaintiff, while working for a company known as Fenestration Glass Company, was assigned to perform the work of a glazer at a project which was under construction and renovation at the Old Rochester High School in the Town of Marion, County of Plymouth, in and for the Commonwealth of Massachusetts.

8. On and prior to February 5, 2002, the defendant, R. W. Granger & Sons, Inc. was in the construction business and was acting as the general contractor for the construction and renovation of the project which was under construction at the Old Rochester High School in the Town of Marion, County of Plymouth, in and for the Commonwealth of Massachusetts.

9. As the general contractor on the project identified in ¶ 5 & 6, the defendant was under a common law and a statutory duty to take reasonable care for the safety of those lawfully on the worksite and to exercise reasonable control over the means and methods of safety on the subject worksite.

10. On and prior to February 5, 2002, the defendant breached its duty of care and acted in a negligent manner in discharging its duties regarding safety on the above described worksite by, inter alia:

- a. Failing to exercise reasonable care in maintaining a safe work place;
- b. Failing to inspect and warn of dangers present on the subject worksite;
- c. Failing to comply with applicable state regulations regarding workplace safety, including 29 C.M.R. § 10.58;
- d. Failing to comply with applicable regulations of the Occupational Health and Safety Administration (OSHA) regarding work place safety.

11. As a direct and proximate result of the defendant's negligence and carelessness as summarized above, the plaintiff was caused to suffer serious and permanent personal injuries for which he was required to undergo surgical intervention.

12. As a result of the foregoing, the plaintiff incurred a serious and permanent bodily injury, suffered great pain of body and anguish of mind and has and will continue to suffer from a loss of his capacity to earn and enjoy life.

WHEREFORE, the plaintiff, Lorenzo Guarino, demands judgment against the, R. W. Granger & Sons, Inc, in an amount that is just and appropriate to compensate the plaintiff for all of the compensable damages he has and will continue to suffer as a direct and proximate result of the defendant's negligence and carelessness, plus interest, costs and applicable fees.

\*\*\* COUNT TWO \*\*\*

**CLAIM OF THE PLAINTIFF LORENZO GUARINO, AGAINST THE  
DEFENDANT SCAVONE C&M CONSTRUCTION CO., INC. FOR  
PERSONAL INJURIES PREDICATED UPON NEGLIGENCE**

13. The Plaintiff repeats, realleges and incorporates fully here ¶¶ 1 – 12.

14. On and prior to February 5, 2002, the defendant, Scavone C&M Construction Co. Inc., entered into an agreement with the defendant Granger and began performing concrete flat work at the project which was under construction at the Old Rochester High School in the town of Marion, County of Plymouth, in and for the Commonwealth of Massachusetts.

15. In performing its work, the defendant employed various types of tools and equipment, including, inter alia, reinforcement wire.

16. As the contractor on the project identified above, the defendant was under a common law and a statutory duty to take reasonable care for the safety of those lawfully on the worksite and to exercise reasonable control over the means and methods of safety on the subject worksite.

17. On and prior to February 5, 2002, the defendant breached its duty of care and acted in a negligent manner in discharging its duties regarding safety on the above described worksite by, inter alia:

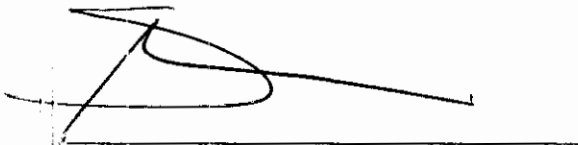
- a. Failing to exercise reasonable care in maintaining a safe work place;
- b. Failing to inspect and warn of dangers present on the subject worksite;
- c. Failing to comply with applicable state regulations regarding workplace safety;
- d. Failing to comply with applicable regulations of the Occupational Health and Safety Administration (OSHA) regarding work place safety;
- e. Leaving materials and equipment in locations which posed a hazard.

18. As a direct and proximate result of the defendant's negligence and carelessness as summarized above, the plaintiff was caused to suffer serious and permanent personal injuries for which he was required to undergo surgical intervention.

19. As a result of the foregoing, the plaintiff incurred a serious and permanent bodily injury, suffered great pain of body and anguish of mind and has and will continue to suffer from a loss of his capacity to earn and enjoy life.

WHEREFORE, the plaintiff, Lorenzo Guarino, demands judgment against the, Scavone C&M Construction Company, Inc, in an amount that is just and appropriate to compensate the plaintiff for all of the compensable damages he has and will continue to suffer as a direct and proximate result of the defendant's negligence and carelessness, plus interest, costs and applicable fees.

RESPECTFULLY SUBMITTED  
PLAINTIFF, LORENZO GUARINO,  
BY HIS ATTORNEY,

A handwritten signature in black ink, appearing to be 'Frank C. Corso', written over a horizontal line.

Frank C. Corso, Esq.  
15 Court Square, Suite 240  
Boston MA 02108  
(617) 227-0011  
BBO #: 545552

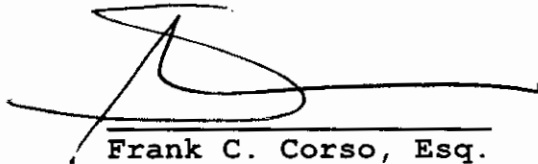
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CERTIFICATE OF SERVICE

I, FRANK C. CORSO, HEREBY CERTIFY THAT ON June 30, 2005, I SERVED BY FIRST CLASS MAIL A TRUE AND ACCURATE COPY OF THE FOLLOWING ON ALL COUNSEL OF RECORD WITH POSTAGE PRE-PAID:

Patrick McCormack, Esquire  
Law Office of Jacqueline L. Allen  
262 Washington Street, Suite 601  
Boston, MA 02108

[x] *PLAINTIFF'S FIRST AMENDED COMPLAINT ASSERTING A  
DIRECT CLAIM AGAINST THIRD PARTY DEFENDANT,  
SCAVONE C&M CONSTRUCTION COMPANY, INC.*



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